

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

JOSEPH BOTELHO

v.

A.T. WALL

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C.A. No. 14-516S

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

Before the Court is Petitioner's Application to Proceed without Prepayment of Fees and Affidavit (Document No. 2) ("Application") pursuant to 28 U.S.C. § 1915. Petitioner Joseph Botelho ("Petitioner") seeks to proceed in forma pauperis in conjunction with a habeas corpus action pursuant to 28 U.S.C. § 2254. (Document No. 1).

According to the Application, Petitioner is incarcerated at the Rhode Island Adult Correctional Institutions and has a prison job for which he is paid \$29.00 per month. The Application also indicates that as of September 17, 2014 Petitioner has the sum of \$59.88 in his prisoner account and has had a balance averaging \$47.79 over the last six months.

Thus, the Court concludes that Petitioner has the ability to pay the \$5.00 filing fee for a habeas corpus action. Accordingly, the Court recommends that the Application be denied and that Petitioner be directed to pay the \$5.00 filing fee or face dismissal of the instant action.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of the Court within fourteen (14) days of its receipt. See Fed. R. Civ. P. 72(b); Local Rule Cv 72(d). Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district court and the right to appeal the district court's decision. See United States

v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
December 10, 2014